

§ 18.11

agent of record. Such mailing shall constitute complete service.

(c) Whenever the filing of a paper is required or permitted in connection with a proceeding, and the place of filing is not specified by this subpart or by rule or order of the hearing examiner, the paper shall be filed with the Director General, Department of State, Washington, DC 20520. All papers shall be filed in duplicate.

§ 18.11 Answer.

(a) *Filing.* The respondent's answer shall be filed in writing within the time specified in the complaint or notice of institution of the proceeding, unless on application the time is extended by the Director General. The answer shall be filed in duplicate with the Director General.

(b) *Contents.* The answer shall contain a statement of facts which constitute the grounds of defense, and it shall specifically admit or deny each allegation set forth in the complaint. The respondent may also state affirmatively special matters of defense.

(c) *Failure to deny or answer allegations in the complaint.* Every allegation in the complaint which is not denied in the answer shall be deemed to be admitted and may be considered as proved. Failure to file an answer within the time prescribed in the notice to the respondent, except as the time for answer is extended by the Director General shall constitute a waiver of hearing, and the Director General may make his/her decision by default without a hearing or further procedure.

§ 18.12 Motions and requests.

Motions and requests, including requests to intervene, may be filed with the Director General.

§ 18.13 Representation.

A respondent or proposed respondent may appear in person or he/she may be represented by counsel or other representative. The Director General may be represented by an attorney or other employee of the Department.

§ 18.14 Hearing examiner.

(a) After an answer is filed, if the Director General decides to continue the administrative disciplinary pro-

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ceedings, he/she shall appoint a hearing examiner to conduct those proceedings under this part.

(b) *Authorities.* Among other powers, the hearing examiner shall have authority, in connection with any proceeding assigned or referred to him/her, to do the following:

(1) Take evidence under appropriate formalities;

(2) Make rulings upon motions and requests;

(3) Determine the time and place of hearing and regulate its course and conduct;

(4) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;

(5) Rule upon offers of proof, receive relevant evidence, and examine witnesses;

(6) Take or authorize the taking of depositions;

(7) Receive and consider oral or written argument on facts or law;

(8) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;

(9) Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding; and

(10) Make initial decisions.

§ 18.15 Hearings.

Hearings shall be stenographically recorded and transcribed and the testimony of witnesses shall be taken under oath or affirmation. Hearings will be closed unless an open hearing is requested by the respondent, except that if classified information or protected information of third parties is likely to be adduced at the hearing, it will remain closed. If either party to the proceeding fails to appear at the hearing, after due notice thereof has been sent to him/her, he/she shall be deemed to have waived the right to a hearing and the hearing examiner may make a decision against the absent party by default.

§ 18.16 Evidence.

The rules of evidence prevailing in courts of law and equity are not controlling in hearings under this part.